

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;
Ann C. Fisher, Vice Chairman;
Mark Acton;
Ashley E. Poling; and
Robert G. Taub

Competitive Product Prices
Priority Mail Express, Priority Mail &
First-Class Package Service Contract 67 (MC2020-16)
Negotiated Service Agreements

Docket No. CP2020-15

ORDER APPROVING AMENDMENT TWO TO
PRIORITY MAIL EXPRESS, PRIORITY MAIL & FIRST-CLASS PACKAGE SERVICE
NEGOTIATED SERVICE AGREEMENT

(Issued August 31, 2022)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express, Priority Mail & First-Class Package Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ USPS Notice of Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 67, Filed Under Seal, August 19, 2022 (Notice). The amendment is an attachment to the Notice (Amendment).

II. BACKGROUND

In Order No. 5296, the Commission approved the Priority Mail Express, Priority Mail & First-Class Package Service Contract 67 negotiated service agreement (Existing Agreement).² On August 19, 2022, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On August 23, 2022, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective three business days after the date that the Commission completes its review of the Notice. Notice, Attachment A at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3035.105. Notice at 1.

III. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* at 2-3. He notes that the Commission will have an opportunity to annually review the financial results in the contract for compliance in future Annual Compliance Determination (ACD) with 39 U.S.C. § 3633(a). *Id.* at 3.

² See Docket Nos. MC2020-16 and CP2020-15, Order Adding Priority Mail Express, Priority Mail & First-Class Package Service Contract 67 to the Competitive Product List, November 6, 2019 (Order No. 5296). The contract was later amended. See Order Approving Amendment One to Priority Mail Express, Priority Mail & First-Class Package Service Negotiated Service Agreement, January 7, 2022 (Order No. 6087).

³ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, August 23, 2022.

⁴ Public Representative Comments on the United States Postal Service Notice of Amendment Two to Priority Mail Express, Priority Mail & First-Class Package Service Contract 67, August 30, 2022 (PR Comments).

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment revises the discount structure of the contract. Notice, Attachment A at 1-2. The Amendment also revises terms relating to termination of the agreement, notices, and marketplace requirements. *Id.* at 2-5.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3035.107(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its ACD to ensure that rates cover costs.

Other considerations. The Amendment shall become effective three business days after the date that the Commission completes its review. Notice, Attachment A at 1.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Express, Priority Mail & First-Class Package Service Contract 67 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Erica A. Barker
Secretary